

Jack O'Connell, Chair

John Vasconcellos

Bob Margett

**K-12 EDUCATION AGENDA**

**April 3, 2002**

**1:30 p.m., or Upon Adjournment of Rules Committee — Room 113**

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## I. Governor's Initiatives

**A. Instructional Materials.** The Governor's 2002-03 budget proposes \$625.0 million for the "Instructional Materials Realignment Initiative." The proposal includes \$250.0 million (ongoing) for a new Instructional Materials Block Grant which replaces four existing instructional materials categorical programs, the funding for which totaled \$356 million in the current year. They include: 1). Instructional Materials K-8; 2). Instructional Materials 9-12; 3). School Library Materials; and 4). K-4 Classroom Library Programs. These programs, together with \$250 million from the Schiff-Bustamante Standards-Based Instructional Materials Program, which will sunset in the current year, make up the \$606.3 million General Fund appropriation for instructional materials in the current year. The Governor's budget increases by \$19.0 million (3 percent) the total instructional materials funding in the budget year by providing one-time funding from the Proposition 98 Reversion Account for three programs in addition to the instructional material block grant. They include: \$200.0 million for a Textbook Block Grant; \$100.0 million for school districts to purchase school library materials or K-12 classroom library materials; and \$75.0 million for school districts to purchase science lab equipment and materials to provide standards-based science instruction in grades 7-12.

**1. Instructional Materials Block Grant (6110-189-0001) (AB 1781 Hertzberg).** The Administration's intent in establishing the \$250.0 million Instructional Materials Block grant is to allow schools to purchase standards-aligned instructional textbooks in the K-12 core curriculum areas of language arts, mathematics, history/social science, and science. Once school districts certify that every student has been provided a full set of standards-based textbooks, the block grant funds may be used for any instructional materials purpose now served by the five separate text book and library materials programs available in the current year. As part of the Governor's initiative, AB 1781 (Hertzberg) was introduced to specify the terms of the various grants (e.g.: a 2-year maximum carryover provision), and also to appropriate \$1.9 billion in future Proposition 98 funds to fund the instructional materials block grant for an additional four fiscal years following the budget year:

<b>Governor's Instructional Materials Block Grant (General Fund Proposition 98)</b>				
<u>2002-03</u>	<u>2003-04</u>	<u>2004-05</u>	<u>2005-06</u>	<u>2006-07</u>
\$250	\$350	\$450	\$550	\$600
State Board of Education Adoptions Schedule: English/Language Arts* (2002)	Health (2004)	History- Social Science* (2005)	Science* (2006)	Mathematics* (2007)
*Standards-aligned				

The Administration states that its purpose in proposing the advance appropriations is to more closely align the allocation of state funding with the planned state textbook adoption cycle and estimated cost of, and demand for, the newly adopted materials. Funding for the more expensive Language Arts textbooks in the budget year, however, is supplemented by the proposed \$200 million in one-time Proposition 98 Reversion Account funds.

The Legislative Analyst's Office (LAO), while supporting consolidation of the existing instructional and library materials programs into a single block grant to provide districts greater flexibility, identifies the overall initiative's internal inconsistency in restricting the use of \$375 million in one-time funds to the three narrowly defined uses for textbooks, library materials, and science lab equipment and materials. **The LAO**

**recommends, instead, redirecting the initiative's entire \$625 million to the LAO-proposed \$1.5 billion Academic Improvement Block Grant.**

***Subcommittee #1 Action:***

**The LAO also recommends denying the Administration's proposal for \$1.9 billion in advance appropriations in fiscal years 2003-04 through 2006-07 for the Instructional Materials Block Grant.** According to the LAO, "there are too many 'moving parts' in this cycle to reliably predict necessary state levels of funding up to four years in advance." In addition, the LAO opines that such Proposition 98 allocation decisions are better left to Legislative deliberations, based on annual reassessment of K-14 education needs, through the budget process.

***Subcommittee #1 Action:***

**2. Library Materials.** Base funding for both the K-12 school libraries program (\$158.5 million), and the K-4 school libraries program (\$25.0 million) are consolidated into the proposed Instructional Materials Block Grant. As part of the Governor's overall initiative, an additional \$100.0 million (one-time) is proposed to allow school districts and charter schools to purchase library books for school libraries or K-4 classroom libraries.

The CDE has expressed concern that even with the additional \$200.0 million of one-time funds proposed in anticipation of district purchases of the recent reading/language arts text adoption, the \$250.0 million in block grant funds will not be sufficient to meet the textbook need and as a result, little if any funding will remain for library materials. Various education organizations estimate that even with the additional one-time funds, there will be an additional \$212 million needed in 2002-03 and another \$378 million in 2003-04 to fully fund school district purchases of the newly adopted Reading/ Language Arts textbooks.

In addition, the CDE asserts that while the current Instructional Materials Fund program allows up to 30 percent of that allotment to be used for library materials, the growing demand and cost for standards-aligned textbooks following the adoptions results in less than 14 percent of that funding going to school libraries. It is unclear whether the "30 percent rule" is, in effect, negated under the Administration's proposal due to the requirement that districts must give first priority to the purchase of standards-aligned materials.

The 1998, California Public Schools Library Act created a separate line item for school library materials with the intent of fostering the development of school library collections. According to the CDE, prior to Library Act funding, California's school libraries were at or near the bottom of school library statistics. Library Act funding, the Department asserts, has been instrumental in raising the average copyright date of a California school library book from 1972 to 1982, in the four years it has been in existence. However, CDE statistics still show California, with only 11.9 "up-to-date, relevant, and enticing" library books per student, lagging behind the national average of 20. The CDE, therefore, supports continuing a separate line item for school libraries.

***Subcommittee #1 Action:***

**3. Proposition 98 Reversion Account.** The Governor's Instructional Materials Realignment Initiative includes three one-time programs totaling \$375 million funded from the Proposition 98 Reversion Account.

- **\$200.0 million** for eligible school districts and charter schools to purchase instructional materials. To be eligible the local education agency must certify to the State Board of Education prior to the beginning of the 2002 school year that it will purchase a standards-based adopted Reading/Language Arts textbook for each pupil by the beginning of the 2002 school year. (9 months from the adoption). **LAO recommends 21 months as a more reasonable and realistic time frame and which would allow districts time to "pilot" the materials before purchasing them.**
- **\$100.0 million**, apportioned on a per-pupil, K-12 enrollment basis, for school districts and charter schools to purchase library books for school libraries or K-4 classroom libraries.
- **\$75.0 million**, to be allocated on a per pupil, grades 7-12, enrollment basis, for the purchase of science lab equipment to provide standards-based instruction in science.

Staff notes that should the Legislature adopt the LAO recommendation (articulated in the K-12 Overview Hearing on March 13<sup>th</sup>) to defer action on the Administration's reversion account proposals and adopt urgency legislation to substitute all (\$535 million), or a portion, of the one-time Proposition 98 Reversion Account funds for an equal amount of Proposition 98 appropriations in the current year—in order to "free up" General Funds in the budget year—that the above programs would be eliminated. However, should the Proposition 98 minimum guarantee increase in May, the Legislature could choose to restore what it considers the most meritorious of the Administration's Proposition 98 Reversion Account proposals.

***Subcommittee #1 Action:***

**B. Independent Study 10 percent Revenue Limit Reduction. (AB 3005, Assembly Budget Committee).** Based on the assumption that non-classroom-based instruction is less expensive to provide than classroom-based instruction, the Governor's budget proposes a 10 percent, non-waivable reduction in funding for non-charter school students served through non-classroom-based, or "independent" study. The reduction is to be implemented by counting a full day of independent study as nine-tenths of an ADA, thereby reducing funding for revenue limits and ADA-based categorical programs. Recently, the Administration added an amendment to this proposal that would reduce the level of funding for County Community School Type C\* children (participating in independent study), to that of a student's district of residence. The provisions for both proposals are included in AB 3005, the annual Education Omnibus Trailer bill. **The Administration now estimates General Fund (Proposition 98) savings of \$35.0 million** in the budget year if both proposals are approved. This estimate of total savings takes into account an anticipated adjustment in May Revise to fix a miscalculation that included Charter School enrollment in the Administration's original, budgeted \$42.0 million savings estimate. Charter schools are not included in this proposal due to the enactment of SB 740, O'Connell (Chapter 892, Statutes of 2001), which, in effect, could potentially reduce funding for charter schools offering independent study programs. (See Discussion In **II. Charter Schools** below).

\*Probation-referred, on probation or parole; mandatory expelled (as specified in Education Code Sec. 48915(c)).

**1. Background:** Independent Study, an educational alternative to classroom instruction, allows students, under the supervision of a credentialed teacher, to receive attendance credit for work completed outside the classroom that is based on a written agreement specifying the school district's course of study requirements. "Time value" of the work submitted by a student for attendance credit is determined by the student's teachers. According to the Department of Education, independent study can provide accommodation, offer individualized approaches and strategies for effective learning and provide necessary counseling individualized support services. While County Community Schools—serving students who are expelled, or who are referred by the juvenile court, probation officer, a School Attendance Review Board (SARB) or other agency—may offer independent study as part of their program, County and District Community Day Schools—which provide an educational placement for specified expelled students—may not.

**2. Legislative Analyst's Office (LAO) Issues.** The LAO withholds a recommendation on the proposal to reduce the funding rate for independent study pending receipt and review of Administration district-level cost data supporting its contention that the per-pupil cost of providing independent study is less costly than classroom based instruction. While some costs of providing independent study may lower (facilities), some may be the same (teacher cost) or higher (instructional materials), the LAO states that it is difficult to determine the overall cost comparison without district level data. However, the LAO does raise the following points regarding the Administration's proposal:

**a. Estimated Savings includes Charter School Enrollment Data.** The Administration's original \$42 million savings estimate assumed that 89,800 or 1.5 percent of statewide ADA would participate in school district and county office of education independent study programs in 2002-03. While the Administration's proposal excludes charter school independent study programs, the data, based on the independent study enrollment figures collected in the California Basic Education Data System (CBEDS) includes charter school enrollment. Based on SDE independent study enrollment data which excluded charter schools and, instead, pegs independent study enrollment at 56,700 ADA in school districts (51,000) and COEs (5,700) in 2002-03, the LAO estimates that the Administration's budget overstated the expected savings from the independent study proposal by \$13.0 million.

The Administration has acknowledged this error and states that an adjustment will be made in the May Revision. It should be noted, however, that the Administration currently believes that the additional savings from the amended proposal, to reduce the funding level for County Community Schools independent study programs to that of the student's district of residence, will increase the total adjusted savings estimate back up to at least \$35 million.

**b. DOF Estimates Are Based on Enrollment v. ADA.** The Department of Finance savings estimates are based on "enrollment" rather than average daily attendance (ADA). Enrollment figures are generally 5 percent higher than ADA figures since ADA considers that the average student school attendance rate is 95 percent. Here, again, the DOF estimates may be too high.

**c. Independent Study Proposal Assumes No Change in Level of Service.**

**(1) The 10 percent Funding Reduction.** The overall proposal to achieve General Fund savings by reducing the funding level of school district and county office of education independent study programs does not take into consideration the extent to which school districts may react to the reduction. Some districts may choose to offer less non-classroom-based instruction in favor of more classroom based instruction thus negating at least a portion of the estimated savings.

**(2) Funding Reduction for County Community Schools offering Independent Study.** The Administration's proposal to include County Community School's funding for "Type C" kids participating in an independent study program in the Education Code Section affected by the 10 percent reduction, includes a provision to reduce the County Community School funding level for these kids to that of the participating student's district of residence. The DOF estimates that the General Fund savings attributed to this reduction will be approximately \$10 million.

**County Community Schools** are operated by County Offices of Education to serve students who are expelled from their regular schools, or who are referred by the juvenile court, by a deputy probation officer or by a School Attendance Review Board (SARB). Offering a 240 minute minimum day, and which includes an independent study option, they are designed to transition students to an appropriate educational, training and /or employment setting. Funding for County Community Schools, except for "Type C" kids, is determined by the base revenue limit of students' district of residence. The County is provided with a higher level of funding for its "Type C" students; approximately \$8,036 per student. Should the Legislature adopt the administration's proposal to reduce funding to Community School "Type C" students participating in independent study; County Offices of Education may drop these programs due to the significant drop in funding and, instead, compel the resident school districts to establish, within the district more expensive and structured Community Day Schools in which they could situate these displaced students.

**Community Day Schools**, which can be established by either a school district or a county office of education, require a 360 minute minimum day and cannot offer independent study, provide an educational placement to all students who are expelled. Priority placement is given to those students expelled for mandatory expulsion offenses. The placement must be in a program of study that can appropriately accommodate students with discipline problems, is not provided in a comprehensive school, and is not housed at the school the student was attending at the time of expulsion. Community Day Schools are provided with a higher revenue limit (\$7,957), with Community Day Schools serving "Type C" kids receiving an additional \$4,550 per student. Since it is not economically feasible for a Community Day School to serve less than 10 kids, the district can apply to the State Board of Education for a waiver to be funded as a "necessary small school." The funding rate for Community Day Schools that are necessary small schools is approximately \$83,140 plus a supplemental amount of \$4,550. The less students served in these schools the higher per pupil cost to the state.

The LAO does not assume that all County Offices of Education operating Community Schools will shut these schools down as a result of the funding reduction, (they may just abandon the independent study program). However, it is a option that may appeal to enough counties to negate any cost savings realized from the rate reduction.

**C. Reading Incentive Programs.** The Governor's budget proposes \$4.75 million General Fund (Proposition 98) for the ongoing Governor's Reading Award Program (\$4.0 million) and the California READs (\$750,000) program.

**1. Governor's Reading Award Program.** This program, now in its third year, provides competitive awards to K-8 schools based on the number of books students read; specifically, the number of pages or books reported to have been read per pupil, as an incentive for K-8 students to read. Winning schools receive a maximum award of \$5,000. In 2001-02, 800 schools (200 in each API quartile) receiving an award earned the maximum \$5,000 award. While administered by the CDE, the program's awardees are selected by the OSE. The OSE states that most school awardees use the funds to purchase library and classroom library books, though some schools also purchased maps, library computers and supplemental instruction materials in reading.

According to the LAO, the small amount of awards, the one-time nature of the purchases, and the fact that the awards are based on a competitive quantity of reading versus quality of reading (i.e. reading content or comprehension) is not clear that this is a cost effective program to instill better reading skills among the targeted students.

**2. California READs Program.** This is a collaborative program involving the Governor's Office, CDE, the federal Eisenhower State Grant Program (which, under the newly reauthorized ESEA, has been combined with federal CSR funds into a new state formula grant that focuses on preparing, training and recruiting high quality teachers) and Books and Beyond Nonprofit Corporation. It encourages recreational reading by K-8 students through various incentive based activities e.g.: read-a-thons, parental involvement activities and professional development.

**The LAO recommends deletion of both programs for a General Fund "savings" of \$4.75 million for the following reasons:**

- 1. Unknown effectiveness of either program.**
- 2. Elimination would not effect quality of instruction or level of service for students.**
- 3. School districts can provide alternative reading award activities with local funds.**
- 4. The "savings" from the programs' elimination can fund other educational priorities.**

***Subcommittee #1 Action:***

**D. High Tech High Schools.** The 2001-02 Budget Act, as revised by Chapter 1, Third Extraordinary Session, Statutes of 2002, provided \$6.0 million in one-time Proposition 98 funding to establish the High Tech High Schools Grant Program, reduced the proposed number of high tech high schools from 10 to 5, and extended the repeal date of the program from January 1, 2003 to January 1, 2004. The Governor's budget proposes \$4.0 million (one-time) from the Proposition 98 Reversion Account for the 2002-03 fiscal year to provide the remainder of the funding to establish five high tech high schools.

The five new high tech high schools, modeled after two existing schools located in San Diego and Napa counties, are to be established throughout the state through a one-time, dollar-to-dollar matching grant of \$2.0 million per school. A high tech high school is defined as a comprehensive high school maintained by a school district or charter school that integrates technology with a rigorous college preparatory curriculum emphasizing math, science, and engineering and that have smaller student populations and competitive admissions requirements. Instruction is required to be consistent with State Board of Education-adopted academic content standards and the applicable curriculum framework content standards.

The LAO has cited similar concerns with this high tech high proposal as those expressed in the 2001-02 budget deliberations, i.e. significant additional costs due to frequent technology upgrades and lower teacher to student ratios; questionable cost effectiveness based on the small number of students served versus the high start-up and annual operating expenses; and the indeterminate need for state assistance in light of substantial support from both the private and federal funds. In light of these concerns, the state's fiscal situation and the availability of alternative funding sources, **The LAO recommends deletion of the \$4.0 million proposed for this program in the budget year.** The LAO notes that the \$6.0 million current year funding would, if evenly distributed over the current and budget years, would provide the five schools with \$1.2 million with which to leverage other funds.

***Q: Could potential High Tech High Schools access funds proposed in Item 611-122-0001, Specialized Secondary Programs?? This program was enacted to assist in the establishment of specialized high schools to provide advanced instruction and training in high technology fields and in the performing arts.***

***Subcommittee #1 Action:***

**E. Governor's Distinguished Math and Science Scholars Program (0954-101-0001).**

The Governor's Budget provides \$14 million to the Scholarshare Investment Board for the Governor's Distinguished Math and Science Scholars Program; an \$8 million or 133 percent increase from 2001-02 to cover expanded eligibility costs. Chapter 404, Statutes of 2000, (SB 1668, Polanco) established both the Governor's Merit Scholars Program (\$112.0 million) and the Governor's Distinguished Math and Science Scholars Program (\$6.0 million).

**1. The Governor's Distinguished Math and Science Program.** This program provides \$2,500 scholarships to those students who qualify to receive the \$1,000 Governor's Merit Scholarships and who achieve the highest scores, a 4 or 5, on advanced placement tests in calculus (5 on the AB test; 4 or 5 on the BC test), and either of the biology (5), chemistry (5) or physics(5) exams. The approximately 2,400 students who will qualify for these awards represent the top 7/10ths of 1 percent of the state's high school students. Eligibility for the Distinguished Scholars program was expanded by Chapter 734, Statutes of 2001 (AB 804, Assembly Committee on Education) to include students who took AP tests prior to January 1, 2000, and otherwise met test score criteria and those students who achieved equivalent levels on an International Baccalaureate test.

The LAO, as it has in prior years, opines that the students who qualify for these awards tend to be high achievers anyway, and are motivated as much or more by college admissions considerations and the cost savings for receiving credit for the college-equivalent courses than by a monetary award. **The LAO, therefore, recommends that the Legislature enact legislation to eliminate the Governor's Distinguished Math and Science Scholar Program and use the \$14 million for other legislative priorities.**

***Subcommittee #1 Action:***

**2. Governor's Merit Scholarship Program.** In an effort to assist the Legislature in addressing what the LAO estimated to be a \$5.0 billion budget problem—in addition to that identified by the Administration and the LAO in November—the LAO included in its February "Options for Addressing the State's Fiscal Problem," a proposal to legislatively suspend, on a one time basis, the Governor's Merit Scholarship program. This would represent a General Fund (non Proposition 98) savings of approximately \$112.0 million. The Governor's Merit Scholarships provide \$1,000 scholarship savings accounts to ninth through 11<sup>th</sup> graders (maximum \$3,000), based on their scoring in the top 5 percent statewide or in the top 10 percent of their high school class on the standards aligned STAR exam. According to the LAO, a one year suspension of this program would mean that one cohort of 9<sup>th</sup> graders would have two opportunities, instead of three to earn scholarships in their high school careers.

***Subcommittee #1 Action:***

**F. Adult Education**



**1. CalWORKS Recipient Services.** The Governor's Budget proposes a \$36.0 million reduction from Item 6110-156-0001 (K-12 Adult Education) to reflect a deletion of funds allocated for services to CalWORKs recipients. Of the \$36.0 million proposed reduction, \$26.0 million is an elimination of adult education and ROCP education services for CalWORKs recipients, \$10.0 million from remedial and job training services for CalWORKs recipients through an interagency agreement with the Department of Social Services. According to the DOF, these funds are in excess of the maintenance of effort (MOE) monies required as a condition of the state's receipt of federal Temporary Aid for Needy Families (TANF) grant funds. The excess funds have been used primarily to allow Adult Education and Regional Occupational Centers and Programs (ROCPs) to claim funds above their average daily attendance cap if they used the additional funds to provide instruction to CalWORKs recipients. The DOF asserts that these funds are no longer necessary to ensure that the state meets its MOE requirement for its federal TANF grant and that CalWORKs recipients can still access adult education and ROCP programs or other CalWORKs employment or training services and funds through the counties, by counties. According to the DOF approximately \$15 million of the \$36.0 million was not spend on MOE activities but could only be spent on "overcap" services.

While K-12 ROCP and adult education programs are not required to serve CalWORKs recipients, i.e.: CalWORKs recipients must compete for these services if there is excess demand, counties can contract with providers if these programs are seen as a county priority. However, in this time of shrinking revenues, funding these programs may come at the expense of other county priorities.

***Subcommittee #1 Action:***

**2. Workforce Development Proposal (Update).** As part of his January 10, Budget Summary, the Governor outlined a proposal to reform and streamline the State's \$4.6 billion workforce development system which he described as a "patchwork of 34 job training programs administered by 13 different state entities. The proposed "Labor and Workforce Development Agency while subject only to a Legislative veto, must gain approval of the 13 member Little Hoover Commission to be enacted. The Governor has set up a task force within his Administration to vet his proposal with key constituency groups including community colleges and K-12 education. Among the stated goals of the proposed Agency are:

- Streamline the existing job training system to provide better access to services for those out of work and those seeking skills for career ladder development
- Consolidate all existing job training programs that provide core employment services, economic development and job training services under a proposed new Labor Agency.
- Consolidate all existing apprenticeship programs under the Department of Industrial Relations (DIR).
- Consolidate all vocational and adult education programs under the Community Colleges system.
- Block grant all existing job training funds to the extent permitted by federal law to consolidate the focus of resources to various workforce development needs.
- Apply rigorous standards of accountability to state and local job training programs.
- Shift the focus of the current workforce development system from short-term job training to economic development.

The Governor's Office has recently stated that there will be no proposed transfer of authority of funding for services of K-12 career technical programs. While services and funding for workforce development programs will be among the programs reviewed, no changes will be included in the May Revise to transfer authority for funding to another entity.

## II. Charter Schools

**A. Background.** A charter school is a public school that may provide instruction in any of grades K-12. This type of school is usually created or organized by a group of teachers, parents and community leaders or a community-based organization and initiated through a charter petition that is usually submitted to and approved by a local public school board. By statute, county offices of education and the State Board of Education also have chartering authority in cases where a petition has previously been denied by a school district governing board. Specific goals and operating procedures for the charter school are detailed in an agreement (or "charter") between the sponsoring board and charter organizers.

A charter school is generally exempt from most laws governing school districts, except where specifically noted in the law. However, charter schools are required to participate in the STAR (Standardized Testing and Reporting) program. The law also requires that a public charter school be nonsectarian in its programs, admission policies, employment practices, and all other operations, and prohibits the conversion of a private school to a charter school. Public charter schools may not charge tuition and may not discriminate against any pupil on the basis of ethnicity, national origin, gender, or disability.

**B. Charter School Direct Funding Model.** The 1999 Budget Act Omnibus Education Trailer Bill, Chapter 78, Statutes of 1999 (AB 1115, Strom-Martin), adopted the Charter School Direct Funding Model which provides charter schools with operational funding that is equal to the total funding that would be available to a similar school district servicing a similar pupil population. The Model provides funding to charter schools through:

- **Revenue Limits:** Equal to the state average revenue limit as determined by type (elementary, unified, high school) and distributed through a continuous appropriation in the annual Budget Act.
- **Charter School Categorical Block Grant (6110-211-0001):** Provides Charter schools a per-pupil amount equivalent to what a school district receives for the average student through 34 specified categorical programs. In addition, such schools will be ineligible to apply for any new categorical programs created by the Legislature, unless the legislation specifically requires charter schools to participate in order to receive funding.
- **Direct Application Programs.** Charter schools must apply directly for numerous programs and must adhere to all laws governing those programs. These programs include K-3 class size reduction, staff development buyout, after school and summer school programs, home-to-school transportation, state testing, Digital High School, English Language Acquisition program (AB 1116), Child Nutrition Programs, After School Learning and Safe Neighborhoods Partnerships Program, all federal programs and numerous other programs.

**1. Access to Revenue Limit Funding to Sunset July 1, 2002 (Information Only) .** The provisions of Chapter 78 that provide charter schools with a continuous appropriation of revenue limits will sunset on July 1, 2002. A budget driven evaluation of charter school effectiveness, however, is scheduled to be submitted by RAND by July 1, 2003. Without a legislative extension of this sunset or enactment of an alternative funding mechanism, charter schools would no longer be able to receive revenue limit (or approximately 60 percent of their) funding. Assemblyman Nation has introduced AB 168 to extend the sunset of the continuous appropriation to July 1, 2005. A similar bill, AB 1132, (Canciamilla) was vetoed last year for reasons unrelated to the extension provision. Senate Bill 168 passed the Senate Education Committee 12-0, on March 13<sup>th</sup>.

**2. District Funding Model Option to End in 2002.** Under current law, all charter schools must participate in the Charter School Direct Funding Model by 2002-03. Schools chartered before June 1, 1999, had or have the option in 1999-00, 2000-01, and 2001-02 of either continuing their current funding arrangement with their chartering school districts or participating in the Charter School Direct Funding Model. Schools chartered June 1, 1999 or later had to participate in the funding model for 1999-00 and subsequent years.

According to CDE, 277 charter schools—representing an ADA of 91,911—have chosen, or were required, to participate in the Charter School Funding Model in the current year. There are 74 charter schools—representing an ADA of 41,381—not participating. Of those not participating, 6 charter schools, representing 4,100 ADA are also designated as charter districts; on which the Education Code is silent as to whether or not they are required to join the direct funding model even absent the grandfather clause. In addition, the CDE indicates that of the 68 non-district charter schools, 60-70 percent receive revenue limits in excess of the charter school block grant rate. Therefore, if the remaining non participating schools are required to transition to the direct funding model there may be a state savings. This savings would be difficult to determine, however, due to the lack of disaggregated data representing a district's, and, therefore, an individual school's, various revenue limit components; one of which is state aid.

The LAO estimates that there would be a \$15.0 million funding shift from school districts to the Charter School Categorical Block Grant, as categorical funding followed the charter schools now funded out of the block grant. However, for at least one year following the fund shift to the Charter School Categorical Block Grant, school districts would retain their same categorical funding level since categorical funding is based on prior year ADA. Since the data may not be available to allow the CDE to “back out” prior year charter school ADA, this could represent a one-time \$15.0 million cost to the state General Fund. According to the CDE, however, except for the first year the funding model was in place, the CDE has adjusted the authorizing district's ADA to reflect the ADA “taken away” by the charter. Therefore, there is no double counting that would result in a funding shift cost to the state.

**The LAO recommends that the Legislature extend the date by which charter schools must transition over to the Categorical Block Grant two years (2004) in order to allow the Legislature to consider the direct funding model as part of reauthorization of charter school law.** The alternatives would, for 2002-03, be to fund a higher categorical block grant level and, concurrently, reduce the funding level of those district categorical programs upon which the charter school categorical block grant is based.

***Subcommittee #1 Action:***

**3. Funding Model Calculation Based on May Revise not Final Budget Act Numbers.**

The Charter School Categorical Block Grant (CSCBG) was created to provide funding in lieu of any categorical programs for which charter schools are not required to apply separately. Anticipating the creation of new categorical programs over time, Chapter 78 requires the DOF to submit at the annual May Revise, the funding growth rate of categorical programs for which charter schools do not have to apply separately. It is this calculation upon which CSCBG funding level is based. In effect, the DOF can therefore determine which categorical programs are not included in the block grant and for which

they must apply separately. The LAO cites four problems with basing the CSCBG funding level on May Revision calculation versus final Budget Act calculations.

- a. The anticipated benefits of using the May Revision calculation to determine CSCBG funding level are not met.
- b. Legislative Authority is compromised when it takes a subsequent budget actions contrary to that proposed by the DOF in the May Revision. The DOF CSCGB funding assumes adoption of DOF May Revision proposals affecting the block grant, thereby potentially preventing a charter from either receiving funding for a categorical program in the block grant or being able to apply for it separately.
- c. The CSCBG calculation does not necessarily reflect the Budget Act as adopted by the Legislature.
- d. It is difficult for stakeholders to verify the DOF calculation because much of the fiscal data needed to make that calculation is not publicly available at the time of the May Revision.

**The LAO, therefore, recommends that the Legislature amend current statute to have the DOF calculate the CSCBG funding level based on the adopted Budget Act and accompanying trailer bill legislation.**

***Subcommittee #1 Action:***

**C. Basic Aid District Students Attending a Non-Basic Aid District Charter School.** Chapter 586, Statutes of 2001, (SB 955, Alpert) limits—to the lesser of the charter school’s revenue limit or the basic aid district’s property tax per pupil—the amount of property tax transferred in support of pupils who reside in a basic aid district, but attend a charter school in a non-basic aid district. The purpose of this funding adjustment was to ensure fiscal neutrality for the state and, as a result, potentially save the state an estimated \$1 million (Proposition 98) per 220 students.

A basic aid district is a school district in which the amount of property taxes exceeds its revenue limit. These districts, numbering 61 in 1999-00, may retain the excess funds and still receive the state General Fund basic aid of \$120 per ADA (or minimum \$2,400 per district).

Due to lack of comprehensive data regarding the number of basic aid district students attending charter schools in non-basic aid districts, or how many basic aid districts have charter schools outside their district, the CDE has not implemented, and the Governor’s Budget does not assume, any General Fund (Proposition 98) savings pursuant to the implementation of SB 955.

**The Subcommittee may wish to: 1. Ask the CDE to report on the status of its data collection for, and implementation of, SB 955. 2. Ask the DOF if there are discussions or plans to assume any budget year SB 955 savings in the May Revision.**

**D. Independent Study (SB 740) Update.** While neither current nor budget year “savings from the enactment of SB 740 O’Connell, (Chapter 892, Statutes of 2001) are assumed in the Governor’s January 10, budget, charter schools are not included in the Governor’s independent study proposal. Senate Bill 740, in effect, could potentially reduce funding for charter schools offering independent study programs. Chapter 892 required the State Board of Education (SBE) to develop a policy to review funding for charter

schools providing 80 percent or less of their instruction in a classroom-based environment. Based on data provided by these charter schools—the CDE has never been required to collect non-classroom based instruction ADA data—the SBE can decide not to fund a charter school for its non-classroom based instruction; reduce a charter schools funding by up to 30 percent over three years, beginning with 10 percent in 2001-02, or fully fund the charter offering non-classroom based instruction. At its March 7<sup>th</sup>, meeting, the Board of Education approved 46 determinations at the 95 percent funding level and 44 determinations at the 100 percent funding level. An additional 28 funding requests were deemed late or incomplete and will be considered by the Board at its April 25<sup>th</sup> meeting.

### III. Mandate Claims

**A. Background.** Current law provides for the reimbursement of costs incurred by local agencies and school districts for costs mandated by the state; i.e., any increased cost which a local agency or school district is required to incur after July 1, 1980 as a result of any statute enacted after January 1, 1975, or an executive order implementing such statute which mandates a new program or higher level of service of an existing program. Estimated claims that show costs to be incurred in the current fiscal year and reimbursement claims that detail the costs actually incurred for the prior fiscal year may be filed with the State Controllers Office (SCO). Claims for on-going programs are filed annually by January 15. When a program has been reimbursed for three or more years, the COSM may approve the program for inclusion on the State Mandates Apportionment System (SMAS) in which the SCO determines each claimant's entitlement based on a consecutive three-year average actual costs adjusted by the implicit price deflator. Claimants with an established entitlement do not file further program claims. The SCO is authorized to make payments for costs of mandated programs from amounts appropriated by the State Budget Act, the State Mandates Claims fund, or specific legislation. In the event the appropriation is insufficient to pay claims in full, claimants will receive prorated payments in proportion to the dollar amount of approved claims for the program. Balances of prorated payments will be made when supplementary funds are made available.

**B. School Bus Safety II Mandate.** Between 1994 and 1997, the Legislature enacted several measures that imposed additional requirements intended to increase school bus student safety. Among the provisions were requirements to provide expanded instruction to pupils in school bus safety; prepare, follow and revise transportation plans; provided written information to parents on school bus safety; and employ flashing signal lights under a broader set of circumstances. In December 1997 a test claim—which has come to be known as School Bus Safety II—was filed with the COSM regarding these additional requirements. The COSM found, in July 1999 that the new requirements constituted a reimbursable state mandate. By 2001-02 the liability had grown to, and the Governor had set aside, \$290 million for this mandate. Of this amount, \$223.7 million was proposed as a one-time allocation from the Proposition 98 Reversion Account to reimburse prior-year and 2000-01 fiscal year costs. Another \$66.7 million was proposed from the General Fund (Proposition 98) for the estimated 2001-02 costs of this mandate. The \$66.7 million was to be included in the annual “claims bill.” The Commission on State Mandates (COSM) estimated that the state would be responsible for similar annual costs in the future.

During the course of its 2001-02 budget analysis, the LAO reviewed approximately 50 cost claims and found a number of irregularities that it felt warranted further investigation. They included:

- Considerable cost variations across districts of equal size and transportation use.
- Claims for staff time spent on mandated activities that may or may not have involved added costs.

- Claims for “fundamental” activities that are so related to the job of school bus driver that they may likely be outside the scope of the new requirements.

The Legislature in 2001-02 decided to delete the entire \$290 million School Bus Safety II mandate claims payment pending the results of an investigation of the appropriateness of the costs of this mandate by the State Auditor’s Office. This report was released March 28<sup>th</sup>. Based on findings that include the following:

- The costs for the mandate are substantially higher than was initially (\$1.0 million per year) expected.
- The cost claims for the 7 districts reviewed varied significantly depending on the approach taken by the various consultants hired by 6 districts as well as the one district which “self-filed.”
- The various approaches appeared to result from the lack of clarity in the Commission-adopted guidelines.
- Most districts lack sufficient documentation for the amounts they claimed.
- The Commission could have avoided approximately 14 months in delays in determining whether a state mandate existed and in developing a cost estimate.

The Bureau of State Audits made the following recommendations to the Legislature:

- The Legislature enact legislation to amend the parameters and guidelines to more clearly define activities that are reimbursable and to ensure that those activities reflect what the Legislature intended.
- The Commission should ensure that all relevant state departments and legislative fiscal committees are provided with the opportunity to provide input on test claims and parameters and guidelines and notify all relevant parties including legislative fiscal committees of the decisions made at critical points in the process e.g.: the test claim statement of decision, the adoption of parameters and guidelines and the adoption of the statewide cost estimate.
- The Commission should ensure it carries out its process for deciding test claims approving parameters and guidelines, and developing the statewide cost estimate for mandates in a timely manner.
- School Districts should ensure that they have sufficient support for the costs they have claimed
- The Commission should work with the Controller, state agencies and other interested parties to make sure the language in the guidelines and claiming instructions reflects the Commission’s intent and the Controller’s expectations relative to supporting documentation.

### ***Subcommittee #1 Action:***

**C. Governor’s Proposal to Defer/Suspend Mandates.** The Governor’s 2002-03 Budget proposes to delay the budget year reimbursement appropriation (\$66.7 million) for the School Bus Safety II mandate and also suspend five other education mandates (\$23.0 million) for a total of \$89.7 million. The Budget assumes that this \$89.7 million is “freed up” for use for other K-14 educational purposes proposed in the Governor’s 2002-03 Budget. It should be noted that the “deferral” of the School Bus Safety II mandate does not free local agencies from the need to comply with the mandate’s requirements. The proposed “suspension” for the other five mandates would make the requirements “permissive.” Suspension of a mandate requires a statutory change. The Administration proposes to effect these changes in AB 2995 (Assembly Budget Committee), a budget trailer bill designated for this purpose. The LAO views this

proposal as reasonable under the state's fiscal circumstances with the caveat that the state will be required to eventually pay any unfunded mandate liabilities (with interest, at the Pooled Money Investment Account rate—about 3 percent) through future budget acts.

<b>Governor's Proposal to Defer/Suspend Mandates 2002-03 (in millions)</b>		
<b>Mandate</b>	<b>Requirements</b>	<b>Amount</b>
School Bus Safety II	Certain school bus safety measures such as implementing a transportation safety plan.	\$66.7
School District of Choice Transfer and Appeals	Notify parents of attendance options.	10.2
Habitual Truants	Hold at least one conference with pupil's parents and classify pupil as a habitual truant after four trancies in the same year.	5.4
Discipline Rules	Develop and adopt rules for pupil discipline every four years and distribute these rules to pupils and parents.	1.7
Absentee Ballots	Districts must provide ballots to registered voters upon request.	1.3
Pupil Suspensions	Staff who refers students for suspension must participate in conferences and report the cause to the district board. Pupils found to have weapons must be suspended immediately.	1.0
<b>Total</b>		<b>\$86.3</b>

***Subcommittee #1 Action:***

**D. Potential Mandate Liabilities.** The Governor’s Budget provides \$153.3 million\* (Proposition 98) for education mandates (see table below). This figure assumes approval of the proposed mandate “suspensions” outlined above and also assumes suspension of the “Open Meetings Act” mandate (\$3.4 million) that was recently withdrawn from the Governor’s proposal. The LAO, in advising the Legislature that any deferred/unfunded mandate liabilities must eventually be paid, cites several types of current and potential future mandates for which the state could be liable. To the extent the Proposition 98 minimum funding level increases in May, the LAO indicates that the Legislature should consider funding at least a portion of these liabilities.

\*Does not include the Administration’s withdrawal of its proposal to eliminate the Open Meetings Act mandate (\$3.4 million).

<ul style="list-style-type: none"> <li>• <b>Deferrals</b>—The Administration has not budgeted for either the current year (\$66.7 million) or the budget year proposed (\$66.7 million) deferral for the School Bus Safety II Mandate:</li> </ul>		<b>\$133.4 million</b>
<ul style="list-style-type: none"> <li>• <b>Deferral of Mandate Deficiency (2001-02)</b> Based on Administration underestimates of mandate costs attributed to the 2001-02 fiscal year, the COSM estimated a \$193.8 million mandate deficiency in 2001-02. The 2001-02 Budget Act provided only \$62.5 million of that amount.</li> </ul>		<b>131.3 million</b>
<ul style="list-style-type: none"> <li>• <b>Potential Mandate Deficiency (2002-03).</b> Estimate assumes a similar level of mandate deficiencies in the budget year as in past years.</li> </ul>		<b>100.00 million</b>
<ul style="list-style-type: none"> <li>• <b>Newly Identified Mandates (2002-03)</b> \$ 7.0 million (ongoing) \$47.0 million (PY/CY)</li> </ul>		<b><u>54.1 million</u></b>
<div style="text-align: right; margin-right: 20px;"> <b><u>Ongoing</u>   <u>Total</u></b> </div> <ol style="list-style-type: none"> <li><b>1. Financial and Compliance Audits</b> (additional LEA audit requirements)      \$904,000    \$7.89m</li> <li><b>2. School Site Councils</b> (abbrev. set of open meeting requirements)    \$6.047 m    \$45.77m</li> <li><b>3. Physical Education Reports</b> (new reporting/compliance requirements)    \$ 8,000    \$48,000</li> </ol>		
<b>Total</b>		<b>\$418.8 million</b>



<b>98 State-Mandated Local Programs -- Local Assistance</b>	<b>2001-02*</b>	<b>2002-03*</b>
Ch. 36/77 et al. Annual Parent Notification	\$3,585	\$3,667
Ch. 77/78 & Ch. 920/94 Absentee Ballots-Schools	1,295	-- <sup>a</sup>
Ch. 87/86 School Discipline Rules	1,726	-- <sup>a</sup>
Ch. 161/93 Intradistrict Attendance	5,262	5,383
Ch. 172/86 Interdistrict Attendance	1,789	1,830
Ch. 172/86 Interdistrict Attendance Parent's Employment	1,111	1,137
Ch. 160/93 School District of Choice Transfer and Appeals	10,207	-- <sup>a</sup>
Ch. 486/75 Test Claims and Reimbursement Claims	11,856	12,129
Ch. 498/83 Graduation Requirements	13,898	14,217
Ch. 498/83 Notices of Truancy	7,975	8,158
Ch. 624/92 School Bus Safety	938	960
Ch. 641/86 Open Meetings Act	3,395	3,400
Ch. 781/92 Charter Schools	598	612
Ch. 799/80 PERS Death Benefits	771	789
Ch. 818/91 AIDS Prevention Instruction	3,118	3,190
Ch. 961/75 Collective Bargaining	40,532	41,463
Ch. 965/77 Pupil Classroom Suspension (counseling)	1,794	1,835
Ch. 965/77 Pupil Health Screenings	3,212	3,286
Ch. 1011/84 Juvenile Court Records	336	344
Ch. 1107/84 Removal of Chemicals	1,302	1,332
Ch. 1117/89 Law Enforcement Agency	1,510	1,545
Ch. 1176/77 Immunization Records	3,444	3,523
Ch. 1253/75 Expulsion Transcripts	28	29
Ch. 1284/88 Pupil Suspensions: Parent Classroom Visits	1,019	1,042
Ch. 1306/89 Notification to Teachers of Public Expulsion	2,853	2,919
Ch. 1347/80 Scoliosis Screening	2,242	2,294
Ch. 1398/74 PERS Unused Sick Leave Credit	3,191	3,264
Ch. 1607/84 School Crimes Reporting	1,557	1,593
Ch. 1659/84 Emergency Procedures	14,229	14,555
Ch. 1675/84 School Testing—Physical Fitness	680	696 <sup>b</sup>
Ch. 98/94 Caregiver Affidavits	387	396
Ch. 1213/91 Collective Bargaining Disclosures	271	277
Ch. 1184/75 Habitual Truants	5,397	-- <sup>a</sup>
Ch. 783/95 Investment Reports	157	161
Ch. 498/83 Pupil Expulsions from School	2,427	2,483
Ch. 668/78 Pupil Health Exclusions	387	396
Ch. 134/87 Pupil Suspensions from School	1,022	-- <sup>a</sup>
Ch. 975/95 Physical Performance Test	1,176	1,203
Ch. 1463/89 School Accountability Report Cards	2,115	2,164
Ch. 778/96 American Government Course Document**	202	207 <sup>b</sup>
Ch. 309/95 Pupil Residency Verification and Appeals	219	224
Ch. 558/97 Criminal Background Check	5,090	5,207
Ch. 731/94 School Bus Safety II	66,728	-- <sup>a</sup>
Ch. 929/97 Annual Parent Notification-Staff Development	1,290	1,320
Ch. 410/95 School Crimes Reporting II	<u>7,301</u>	<u>7,469</u>
Totals	<u>\$239,622</u>	<u>\$156,699</u> <sup>c</sup>
*Dollars in thousands, except in salary range.		
<sup>a</sup> Mandates Administration proposed for suspension for 2002-03.		
<sup>b</sup> Mandates LAO proposes for suspension for 2002-03		
<sup>c</sup> Includes proposed restoration of \$3.4 million for the Open Meetings Act mandate.		
NOTE: COLA is provided by ER unit.		

*Subcommittee #1 Action:*

**E. Mandates and Categorical Reform Mandates.** As mentioned during the Categorical Reform discussion at the Subcommittee's March 13<sup>th</sup>, overview hearing, the LAO includes in its recommended block grants the budgeted funding (Proposition 98) for 31 education mandates. These mandates are, for the most part, categorized in the Academic Improvement (\$52 million in mandates) or School Safety Block Grants (\$39.9 million). First priority for these block grant funds would be to cover the costs associated with meeting requirements of the specified mandates. In what LAO considers the unlikely event that a school district's mandate cost is greater than the funding it receives through a proposed block grant, the school district would be eligible for state reimbursement of the unfunded portion of the cost of meeting the mandate requirements. The advantages cited for including mandates in the block grants are four-fold:

1. School districts would have an incentive to meet the requirements of the mandates in a cost-effective manner since school districts would be allowed to redirect their (administrative) savings from mandate implementation to the education purposes permitted by the block grant.
2. The incentive to maximize claims, a process that contributes to the large amounts of deficiency requests, would be eliminated.
3. School districts' administrative costs would decrease due to the elimination of the labor-intensive reimbursement process.
4. Districts would have an incentive to share information regarding which mandates appear, from their perspective, no longer to be cost-effective; perhaps prompting the Legislature to reassess the need for certain education mandates.

*Subcommittee #1 Action:*

**F. Test Claims and Reimbursement Claims.** The Governor's budget proposes \$12.1 million for the Proposition 98 portion of the reimbursable mandate created by Chapter 486, Statutes of 1975 (AB 1375, Knox). This mandate is for the administrative costs associated with filing an initial test claim and with the process and procedures involved in filing a reimbursement claim. **Should the Legislature enact the LAO's recommended categorical program block grants, which include mandated programs, the LAO further recommends that the Legislature reduce the appropriation for this mandate by \$6.0 million (leaving a balance in the base to fund potential future test claims).**

*Subcommittee #1 Action:*

**G. Collective Bargaining Mandates.** The Governor's budget proposes \$41.5 million from the General Fund (Proposition 98) to reimburse K-14 districts for collective bargaining costs in 2002-03.

**1. Background.** The 1975 "Rodda Act" (Chapter 961, Statutes of 1975. SB 160 Rodda) provided K-14 employees with the right to bargain collectively over working conditions and the scope of employment. In 1998, the predecessor agency to the COSM, the Board of Control, found that the Rodda Act imposed a state-reimbursable mandate on K-12 districts because it included provisions requiring that

districts “meet and negotiate, thus setting up a “collective-bargaining atmosphere for public school employees.” Subsequent Budget Acts have appropriated funds for reimbursement of the this mandate. The LAO points out however, that at the time the Rodda Act was declared a reimbursable mandate, reimbursement of such mandates was a frequently waived statutory provision versus a constitutional requirement which came after the passage of Proposition 4 in 1979 and therefore, the Board had little legal precedent upon which to guide its decision making. In the late 1980’s, however, California appellate courts ruled that a mandate was created when a the state requires local governments to provide a new or upgraded program to the public , or imposes a new requirement on local governments that do not apply generally to residents and entities in the state. In two subsequent State Supreme Court decisions the court’s rulings formed the basis of the “law of general applicability; i.e.: if a statute imposes a similar obligation on the private and public sector ,the public sector’s costs to comply with the requirement do not constitute a state-reimbursable mandate. In the case of the Rodda Act, however, the Board of Control only compared the Act’s provisions against local employment obligations in place before it’s enactment. While the commission lacks the legal authority to go back and reconsider the merits of a decision after 30 days; the state never stepped in to reconsider this or any other mandate decision. According to the LAO it’s review of the state’s collective bargaining law indicates that its general intent was to, extend the same collective bargaining rights widely available to their employees to K-14 employees. While the Rodda Act does contain some procedures that may be considered “in excess” of the duties of other employers, e.g. negotiation impasses, unfair labor practices, and public disclosure of collective bargaining proposals, an LAO review revealed that they account for less than 10 percent of the overall claimed costs for this mandate.

## **2. Points to consider regarding the Collective Bargaining Mandate.**

- a. In light of prevailing legal rulings, the Rodda Act may no longer meet the criteria of a state reimbursable mandate.
- b. Uneven funding distribution (more than 20 fold on a per student basis) among districts reflects local record keeping and claim filing practices more than policy objectives, need, or legislative intent.
- c. State reimbursement of costs provide little if any incentive to undertake collective bargaining efficiently.
- d. Based on historical “underestimates” (averaging \$11.9 million) of the per year cost to fund this mandate, which ultimately have led to large deficiencies that are included in deficiency bill every spring, and inflation adjustments, the LAO estimates that K-14 mandate claims under the collective bargaining mandate will actually be above \$54.0 million in 2002-03; \$12.5 million more than provided in the Governor’s budget.

### **The LAO, therefore, recommends:**

1. That the Legislature initiate a reconsideration of the collective bargaining mandate by redirecting funds for the mandate appropriation to other legislative priorities.
2. Approve budget bill language specifying that Chapter 961 (The Rodda Act) no longer meets the criteria of a state-reimbursable mandate.

In making this recommendation, the LAO notes that absent the current existence of any administrative mechanism to reexamine a mandate in light of modern legal rulings, the authority to review mandates rests with the courts. By not funding this mandate in the budget the Legislature will, in effect, initiate that reexamination process by “inviting” a K-14 district to challenge this budget decision. Should a court rule

that any portion of Chapter 961 constitutes a mandate, the state may be liable for the costs of these claims in the budget year with interest; albeit at the Pooled Money Investment Account rate of 3 percent.

***Subcommittee #1 Action:***

**H. School Testing—Physical Fitness Mandate.** The Governor’s budget includes \$696,000 General Fund (Proposition 98) for the School Testing—Physical Fitness mandate for 2002-03. The requirements for this mandate, that school districts and COEs conduct physical fitness tests was, repealed by SB 622 (Hart) in 1991 as of January 1, 1995. The Controller’s Office has not received any claims for this mandate since 1996, though the each annual budget since 1997-98 has provided funding for the its potential claims. A different mandate, The Physical Performance Tests mandate, created by AB 265, Alpert (Chapter 975, Statutes of 1995) and beginning in 1996, has a separate budget appropriation of \$1.2 million in 2002-03. In light of the above, **the LAO recommends that the Legislature delete \$696,000 of funding for the expired mandate, thus freeing up this amount of budget year Proposition 98 funds for other education priorities.**

**I. American Government Course Documents Mandate.** The Governor’s budget provides \$207,000 for the American Government Course Documents mandate, the claims for which have grown significantly since 1996-97, (created by AB 3086 (Olberg) in 1996), and are likely to grow further in the future. Assembly Bill 3086, (Chapter 778, Statutes of 1996), imposed several American Government related requirements on school districts; specifically, that as part of the American Government and Civics courses required for high school graduation, school districts must teach, and students read, The Federalist Papers, the Emancipation Proclamation, the Gettysburg Address, George Washington’s Farewell address, the Declaration of Independence and the Bill of Rights. The LAO points out that all of the requirements for the American Government Course Documents mandate are also part of the State Board adopted (1998) History/Social Science content standards, the standards-aligned curriculum for which, schools are already responsible for providing per implementation of the statewide accountability system. **The LAO recommends, therefore, that the Legislature enact legislation to make compliance with the American Government Course Documents mandate voluntary. (\$207,000 “savings” in 2002-03 if enacted).**

***Subcommittee #1 Action:***

#### **IV. Section 28.0 Letters—Review.**

**A. Background:** The legislative intent of Budget Bill Section 28.00 is to “provide flexibility for administrative approval of augmentations for the expenditure of unanticipated federal funds or other non-state funds in cases that meet all the following requirements:

1. The funds will be expended for a purpose that is consistent with state law.

2. The funds are made available to the state under conditions permitting their use only for a specified purpose, and the additional expenditure proposed under this section would apply to that specified funding purpose.
3. Acceptance of the additional funding does not impose any state requirement to commit or expend new state funds for any program or purpose.
4. The need exists to expend the additional funding during the [current] fiscal year.

For those Section 28.0 requests that meet the above requirements, the Director of the DOF may authorize the augmentation or reduction of 1) the amount available for expenditure for any program, project or function in a budget item schedule or 2) the amount of additional, current year, unanticipated funds expected to be received by the state from any non state sources including local and federal funds for any additional program, project or function.

Augmentations or reductions that exceed either \$200,000 or 10 percent of the amount available for expenditure, cannot be authorized less than 30 days after written notification to the chairs of both the Assembly and Senate Committees on Appropriations, Budget, appropriate Budget subcommittees and Joint Legislative Budget Committee regarding the necessity of the change.

**B. 2001-02 Budget Act Section 28.0 Requests.** Senator Steve Peace, chair of the Joint Legislative Budget Committee, recently sent a letter to Department of Finance Director Tim Gage, regarding Department's intent to approve several K-12-related augmentations pursuant to Section 28.0 of the 2001-02 Budget Act. He specifically raised concerns, supported by the Legislative Analyst, that the proposed augmentations in an increasing number of K-12 Section 28.0 Letters including the four listed below, do not meet all the requirements of Section 28.0; i.e. that the proposed funds are (1). "unanticipated," (2) are available only for a specified purpose, and (3). need to be expended in 2001-02. Senator Peace, therefore, requested that the DOF defer approving the proposals until both the appropriate Assembly and Senate Budget Subcommittees consider the proposals during a scheduled hearing and report their recommendations to the Joint Legislative Budget Committee.

**The issue facing the Subcommittee is whether or not the proposals as dated and outlined below, should be approved under Section 28.0 of the 2001-02 Budget Act or whether they should be addressed as part of the 2002-03 budget deliberations.**

**1. February 13, 2002. Alternative Assessment.** This letter proposes an augmentation of \$1.2 million (federal funds) for the CDE to (1) develop an alternative assessment for special education pupils unable to take the state's standardized tests (even with special accommodations). (2) further develop an alternative accountability model for alternative schools and (3) ensure that students affected by either the alternative assessment or alternative model are also taken into account in the state's overall school accountability system.

**2. February 15, 2002. Evaluation of High Risk First Time Offenders Program.** This letter proposes \$650,000 from carry-over federal funds (Improving America's Schools Act) for CDE to evaluate the High Risk First-Time Offenders program. These federal carryover funds will replace \$650,000 in General fund originally budgeted for this evaluation but deleted as part of CDE's compliance with an Executive Order which imposed a statewide reduction of at least \$150.0 million in 2001-02 General Fund operating expenses and equipment expenditures.

**3. March 5, 2002. High School Reform Grant Program.** This letter proposes to increase CDE's federal fund expenditure authority by \$998,000 for a new, one-time High School Reform Grant Program. The United States Department of Education awarded California \$998,000 for high school reform through the High School Reform Grant competition. The CDE has 36 months to expend the award funds intended to help low performing high schools improve student achievement, attendance, and graduation rates. The annual state match, however, increases each year by 10 percent beginning with 30 percent the first year. To minimize the state match requirements CDE proposes allocating the full amount in the first year; providing matching funds from existing Specialized Secondary Programs (SSP) funds.

***Subcommittee #1 Action:***

**V. Consent Calendar**

Staff recommends that the following Items be approved as budgeted. No issues have been raised with regard to any of these Items:

1. 6110-001-0119 Support, Administrative Services to local education agencies (LEAs), payable from 1998 State School Facilities Fund, \$1,920,000.
2. 6110-001-0178 Support, School Bus Driver Instructor Training Program, payable from the Driver Training Penalty Assessment Fund, \$1,068,000.
3. 6110-001-0231 Support, Health and Physical Education—Drug-Free Schools, payable from the Health Education Account, Cigarette and Tobacco Products Surtax Fund, \$952,000.
4. 6110-001-0687 Support, Donated Food Distribution, payable from the Donated Food Revolving Fund, \$5,019,000.
5. 6110-001-0975 Library and Learning Resources, \$15,000.
6. 6110-003-0001 Standardized Account Code Structure, \$983,000.
7. 6110-101-0231 Health and Physical Education—Drug Free Schools, for COEs \$3,800,000.
8. 6110-101-0814 Local Assistance from State Lottery Education Fund, \$812,694,000.
9. 6110-102-0231 Health and Physical Ed.—Drug Free Schools, local assistance, \$23,244,000.
10. 6110-103-0001 Apprentice Programs, \$15,852,000.
11. 6110-105-0001 Regional Occupational Centers and Programs (ROCPs). \$375,679,000
12. 6110-106-0001 West Contra Costa Facilities Payment, \$800,000.
13. 6110-108-0001 Tenth Grade Counseling, \$11,460,000.
14. 6110-110-0001 Student Friendly Services, \$500,000.
15. 6110-117-0001 California Association of Student Councils, \$562,000.
16. 6110-119-0001 Educational Services for Foster Youth, \$8,739,000.
17. 6110-122-0001 Specialized Secondary Programs, \$5,128,000.
18. 6110-124-0001 Gifted and Talented Pupil Program, (GATE), \$56,452,000.
19. 6110-131-0001 American Indian Early Childhood Education Program, \$550,000.
20. 6110-139-0001 School Apportionments, Pupil Residency Verification, \$162,000.
21. 6110-151-0001 American Indian Education Centers, \$3,772,000.
22. 6110-152-0001 American Indian Education Centers, (Non-Proposition 98), \$376,000.
23. 6110-158-0001 Adults in Correctional Facilities, \$19,067,000.
24. 6110-163-0001 Early Intervention for School Success, \$2,166,000
25. 6110-177-0001 Local Arts Education Partnership Program, \$6,000,000.
26. 6110-181-0140 Environmental Education, \$800,000
27. 6110-188-0001 School Apportionments, Deferred Maintenance, \$205,360,000
28. 6110-208-0001 Center for Civic Education, \$250,000.
29. 6110-209-0001 Teacher Dismissal Apportionments, \$40,000
30. 6110-224-0001 Year Round School Grant Program, \$84,022,000.
31. 6110-242-0001 California Association of Student Councils, \$33,000.

***Subcommittee #1 Action:***